



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-475-818, C-475-819)

Certain Pasta From Italy: Final Results Of Antidumping Duty And Countervailing Duty Changed Circumstances Reviews and Revocation, In Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On August 15, 2014, the Department of Commerce (the Department) published its notice of initiation and preliminary results of changed circumstances review, and intent to revoke, in part, the antidumping and countervailing duty orders on certain pasta from Italy.¹ We invited parties to comment and received no comments. Therefore, we are now revoking the orders, in part, with respect to certain cheese- and/or vegetable-filled (stuffed) ravioli and tortellini pasta (ravioli and tortellini filled with cheese and/or vegetables).

EFFECTIVE DATES: July 1, 2012 (AD order) and January 1, 2012 (CVD order)

FOR FURTHER INFORMATION CONTACT: Jennifer Meek at (202) 482-2778; AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

¹ See *Certain Pasta From Italy: Initiation and Preliminary Results of Antidumping Duty and Countervailing Duty Changed Circumstances Review, and Intent To Revoke Orders, In Part*, 79 FR 48121 (August 15, 2014)(*Initiation and Preliminary Results*).

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published in the *Federal Register* the *Orders* on certain pasta from Italy.² On May 16, 2014, in accordance with sections 751(b) and 751(d)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216(b), and 19 CFR 351.222(g)(1), Grandi Pastai Italiani, Inc. and Grandi Pastai Italiani S.p.A. (together, GPI), an importer of subject merchandise, requested revocation, in part, of the *Orders* with respect to its Italian ravioli and tortellini filled with cheese and/or vegetables, as part of a changed circumstances review. GPI requested that the Department conduct the changed circumstances review on an expedited basis pursuant to 19 CFR 351.221(c)(3)(ii). As noted above, we gave interested parties an opportunity to comment on the *Initiation and Preliminary Results*. We received no comments from interested parties. Therefore, we are now revoking the *Orders*, in part, with respect to ravioli and tortellini filled with cheese and/or vegetables.

Scope of the Orders

Imports covered by these *Orders* are shipments of certain non-egg pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

² See *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy*, 61 FR 38544 (July 24, 1996) and *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 38547 (July 24, 1996) (collectively, the *Orders*).

Excluded from the scope of these *Orders* are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by Associazione Italiana per l'Agricoltura Biologica, by Ambientale.³ Effective July 1, 2008, gluten-free pasta is also excluded from the AD order.⁴ Effective January 1, 2009, gluten-free pasta is also excluded from the scope of the CVD order.⁵

The merchandise subject to these *Orders* is currently classifiable under items 1901.90.9095 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the description of the merchandise subject to the *Orders* is dispositive.

Scope Rulings

The Department issued the following scope rulings to date:

- (1) On August 25, 1997, the Department issued a scope ruling finding that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the *Orders*.⁶

³ See Memorandum from Yasmin Nair to Susan Kuhbach, entitled "Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy" (October 10, 2012), which is on file in the Department's Central Records Unit ("CRU") in Room 7046 of the main Department building.

⁴ See *Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation*, in Part, 74 FR 41120 (August 14, 2009).

⁵ See *Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011) (*Pasta from Italy CVD CCR*).

⁶ See Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

- (2) On July 30, 1998, the Department issued a scope ruling finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the *Orders*.⁷
- (3) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the *Orders*. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the *Orders*.⁸
- (4) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pastificio Fratelli Pagani S.p.A.'s importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention with respect to the *Orders* pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(b).⁹ On September 19, 2003, we published an affirmative finding in the anti-circumvention inquiry.¹⁰
- (5) On July 18, 2013, the Department issued a scope ruling finding that Valdigrano di Flavio Pagani S.r.L. product which is made from a dough that contains 2.5 percent egg white, by weight, is within the scope of the *Orders*.¹¹

⁷ See Letter from Susan H. Kuhbach to Barbara P. Sidari, dated July 30, 1998, which is on file in the CRU.

⁸ See Memorandum from John Brinkman to Richard Moreland, dated May 24, 1999, which is on file in the CRU.

⁹ See *Certain Pasta From Italy: Notice of Initiation of Anti-Circumvention Inquiry on the Antidumping and Countervailing Duty Orders*, 65 FR 26179 (May 5, 2000).

¹⁰ See *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

¹¹ See Memorandum from Joseph Shuler to Christian Marsh, dated July 18, 2013, which is on file in the CRU.

Final Results Of Antidumping And Countervailing Duty Changed Circumstances Reviews, And Revocation Of The Orders In Part

At the request of GPI, and in accordance with sections 751(b)(1) and 751(d)(1) of the Act, 19 CFR 351.216, and 19 CFR 351.222(g)(1), the Department initiated a changed circumstances review of ravioli and tortellini filled with cheese and/or vegetables from Italy to determine whether a partial revocation of the *Orders* is warranted with respect to these products.¹² In addition, we determined that expedited action is warranted and, consistent with 19 CFR 351.221(c)(3)(ii), combined the notices of initiation and preliminary results.¹³ Based on the expression of no interest by Petitioners,¹⁴ which stated that they are producers accounting for substantially all of the production of the domestic like product in support of *the Orders*,¹⁵ and absent any objections by other domestic interested parties, we preliminarily determined that substantially all of the domestic producers of the like product have no interest in the continued application of the *Orders* to the merchandise that is subject to GPI's request and that partial revocation of the *Orders* is appropriate. Accordingly, we notified the public of our intent to revoke, in part, the AD and CVD *Orders* as they relate to imports of ravioli and tortellini filled with cheese and/or vegetables from Italy.¹⁶ We did not receive any comments from parties objecting to the partial revocation. Because all parties to the proceeding agree to the outcome of the review, we are issuing these final results of changed circumstances review within 45 days of initiation in accordance with 19 CFR 351.216(e). Therefore, in accordance with sections 751(d)(1) and 782(h) of the Act and 19 CFR 351.222(g)(1)(i) of the Department's regulations,

¹² See *Initiation and Preliminary Results*.

¹³ *Id.*

¹⁴ Petitioners in this proceeding include A. Zerega's Sons, Inc., American Italian Pasta Company, Dakota Growers Pasta Company, New World Pasta Company, Philadelphia Macaroni Company, and ST Specialty Foods. See Letter from Petitioners, "Changed Circumstances Review Request – Certain Pasta from Italy" (May 16, 2014).

¹⁵ See Letter from Petitioner, "Changed Circumstances Review Request – Certain Pasta from Italy" (May 16, 2014).

¹⁶ See *Initiation and Preliminary Results*.

we are partially revoking the Orders with regard to the specific products meeting the specifications described below. This partial revocation will be applied retroactively to entries of ravioli and tortellini filled with cheese and/or vegetables, entered or withdrawn from warehouse, for consumption, on or after July 1, 2012 for the AD order and January 1, 2012 for the CVD order, which correspond to the day following the last day of the most recently completed administrative reviews under each order.¹⁷ The scope of the AD and CVD orders are modified to read as follows:

Imports covered by these orders are shipments of certain non-egg pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of these orders are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by

¹⁷ See, e.g., *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 74 FR 8506 (February 25, 2009) (retroactively revoking an order, in part, to unliquidated entries not subject to a final determination by the Department).

Associazione Italiana per l'Agricoltura Biologica, by Ambientale.¹⁸ Effective July 1, 2008, gluten-free pasta is also excluded from the AD order.¹⁹ Effective January 1, 2009, gluten-free pasta is also excluded from the scope of the CVD order.²⁰ *Effective July 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the AD order. Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the CVD order.*

The merchandise subject to these orders is currently classifiable under items 1901.90.9095 and 1902.19.20 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the description of the merchandise subject to the orders is dispositive.

Instructions to U.S. Customs and Border Protection

As we stated in our *Initiation and Preliminary Results*, we will instruct U.S. Customs and Border Protection to end the suspension of liquidation for the merchandise covered by the revocation on the effective dates of this notice of revocation, in part, and to release any cash deposit or bond, pursuant to 19 CFR 351.222(g)(4).

Notification

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed

¹⁸ See Memorandum from Yasmin Nair to Susan Kuhbach, entitled "Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy" (October 10, 2012), which is on file in the Department's Central Records Unit (CRU) in Room 7046 of the main Department building.

¹⁹ See *Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation*, in Part, 74 FR 41120 (August 14, 2009).

²⁰ See *Pasta from Italy CVD CCR*.

under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216(e), 351.221(b)(5), and 351.222(g).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

September 22, 2014
(Date)

[FR Doc. 2014-23129 Filed 09/26/2014 at 8:45 am; Publication Date: 09/29/2014]